IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

McINTYRE — Atty. Ref.: 3598-2 (AMK)

Serial No. 09/828,226 — TC/A.U.: 3693

Filed: April 9, 2001 — Examiner: D. Felten

For: RANGE BID MODEL

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May 21, 2007

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF

In reply to the Examiner's Answer dated March 21, 2007, Appellant submits this Reply Brief under 37 C.F.R. §41.41.

On page 4 of the Examiner's Answer, the Examiner references a teaching in the Rickard patent relating to "a maximum point." The Examiner's Answer provides that "[s]ince the maximum point is related to mutual satisfaction and that one of the parameters for mutual satisfaction is price for a trades security, it would have been obvious for an artisan within the ordinary skill in the art at the time of the invention to incorporate price as one of the variables that the system would use to determine the negotiations between parties." As noted previously, Appellant does not disagree that price is a variable in determining negotiations between parties. The "theoretical price

point" defined in the claims, however, relates to a point at which neither party has indicated satisfaction. The claimed theoretical price point is relevant only when "mutual satisfaction" for the transaction does not exist. The "maximum point" referenced in Rickard relates to a maximum in which mutual satisfaction can be achieved.

The Examiner's Answer additionally references a section in Rickard with regard to transaction processing "if adequate contra volume does not exist." In this context, however, the shortage of volume in the securities transaction is not pertinent to the generation of a theoretical price point in the event that there is no overlap between the seller's lower limit price and the buyer's upper limit bid. Moreover, as noted previously, the "split the middle" methodology in Micali relates only to a transaction where a price point is between the seller reservation price and the buyer reservation price.

In paragraph 10 of the Examiner's Answer, the Examiner contends that the language in claim 1 is recited in the "alternative," wherein processing a transaction when the overlap region does not exist "would not be considered." This characterization of Appellant's claims, however, is clearly misplaced. Claim 1 for example defines a method of conducting a transaction between a buyer and a seller. In conducting the transaction, the method includes steps for when an overlap region exists between the seller lower limit price and the buyer upper limit bid and for when an overlap region does not exist between the seller lower limit price and the buyer upper limit bid. The method accommodates both scenarios as part of a complete system and does not define alternative scenarios. Moreover, the reference to "splitting the middle" in Micali is only applicable when an overlap region exists. Presumably, although Micali is silent in this

regard, as with the numerous previously-cited prior art references, when an overlap region does not exist, the transaction is terminated or otherwise stalled. To assume that this teaching in Micali meets the claimed "theoretical price point" is improper hindsight in view of the Appellant's own disclosure.

With reference to the discussion in the Appeal Brief, the Examiner in the Examiner's Answer again fails to address the subject matter of independent claims 13, 14, 17 and 25. Additionally, the Examiner's Answer overlooks at least those dependent claims that further define features and components of the theoretical price point, among other features of the invention, which are also lacking in Rickard and Micali, taken singly or in combination.

For the reasons discussed herein and in the Appeal Brief, reversal of the rejection is respectfully requested.

Respectfully submitted,

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